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ROBERT SMITH

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT SMITH, an individual
as Plaintiff,

vs.

UNITED STATES OF AMERICA, a
government entity and DOES 1 to 10,
inclusive

as Defendants.

Case No.: 2:22-cv-02675

CIVIL COMPLAINT FOR DAMAGES

1. Negligence

COMES NOW Plaintiff ROBERT SMITH, who respectfully alleges the following:

I.

GENERAL ALLEGATIONS

1. Plaintiff ROBERT SMITH is and was at the time when all wrongful tortious acts as alleged herein were committed against them, a citizen of Los Angeles, California.

2. Defendant UNITED STATES OF AMERICA, employed or hired certain agents, servants and/or employees, including JAMES EDWARD MULDROW and DOES 1 through 10.

3. Defendants DOES 1 through 10, inclusive, are sued herein under fictitious names. Their true names and capacities are unknown to Plaintiff. When their true names and capacities are ascertained, Plaintiff will amend this complaint by inserting their true names and capacities. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiff's damages were proximately caused by those Defendants. Each reference in this complaint to

1 “Defendant,” “Defendants,” or a specifically named Defendant refers to all named Defendants and
2 those sued under fictitious names.

3 4. Plaintiff is informed and believes and thereon alleges that at all times material
4 hereto and mentioned herein, each Defendant sued herein was the agent, servant, employer, joint
5 venturer, partner, owner, subsidiary, alias, and/or alter ego of each of the remaining Defendants
6 and was, at all times, acting within the purpose and scope of such employment, agency, servitude,
7 ownership, subsidiary, alias and/or alter ego and with the authority, consent, approval, control,
8 influence, and ratification of each of the remaining Defendants sued herein.

9 5. The claims herein are brought against the United States pursuant to the Federal
10 Tort Claims Act (28 U.S.C. §2671, *et seq.*) and 28 U.S.C. §§1346(b)(1), for money damages
11 as compensation for personal injuries that were caused by the negligent and wrongful acts and
12 omissions of employees of the United States Government while acting within the scope of their
13 offices and employment, under circumstances where the United States, if a private person, would
14 be liable to the Plaintiff in accordance with the laws of the State of California

15 6. The jurisdiction of this Court over the subject matter of this action is predicated on
16 28 USC §1339. Venue in this district is based upon the place of injury and Plaintiff’s residence.
17 Matter in controversy exceeds \$25,000.00.

18 **I.**

19 **FACTS RELEVANT TO ALL CAUSES OF ACTION**

20 7. On August 12, 2020 , Plaintiff ROBERT SMITH was prudently parked on Flores
21 Ave., at or near Main Street, Los Angeles, CA 90003 when Plaintiff’s vehicle was violently
22 sideswiped by a truck owned by Defendant The UNITED STATES OF AMERICA, rented or
23 leased by The United States Postal Service and operated by James Edward Muldrow.

24 8 Plaintiff filed a claim with the United States Postal Service and/or US Government
25 for this incident on or about January 3, 2021.

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III.

CAUSES OF ACTION

First Cause of Action

Negligence

(Plaintiff ROBERT SMITH vs. ALL DEFENDANTS)

9. Plaintiff hereby incorporates by reference paragraphs 1 through 9 as though set forth fully herein.

10. The collision caused by the recklessness, carelessness and negligence of the Defendants, breached duties owed to Plaintiff ROBERT SMITH by:

Count 1 - operating a motor vehicle at a high, dangerous and excessive rate of speed under the circumstances then and there existing;

Count 2 - failing to reduce speed to avoid a collision;

Count 3 - failing to observe due care and precaution and to maintain proper and adequate control of the motor vehicle;

Count 4 - failing to keep a proper lookout for vehicles lawfully upon the roadway;

Count 5 - failing to exercise reasonable care in the operation of the motor vehicle under the circumstances then and there existing;

Count 6 - In other respects not now known to the Plaintiff but which may become known prior to or at the time of trial;

11. As a direct and proximate result of the negligence and carelessness of the defendants, the Plaintiff:

(A) Suffered serious, painful and permanent bodily injuries, great physical pain and mental anguish, severe and substantial emotional distress, loss of the capacity for the enjoyment of life;

(B) Was, is and will be required to undergo medical treatment and to incur medical costs and expenses in order to alleviate injuries, pain and suffering;

(C) Was, is and will be precluded from engaging in normal activities and pursuits, including a loss of ability to earn money and of actual earnings;

1 (D) And, otherwise was hurt, injured and caused to sustain losses.

2 12. All of the Plaintiff's losses were, are and will be due solely to and by reason of the
3 carelessness and negligence of Defendants, without any negligence or want of due care on the
4 Plaintiff's part contributing thereto.

5 **WHEREFORE** based on the allegations as set forth above, Plaintiff ROBERT
6 SMITH prays that judgment be entered in his favor against UNITED STATES OF AMERICA, a
7 government entity, and DOES 1-10, as follows:

8 1. On each and every cause of action, for general, compensatory and special damages,
9 in an amount according to proof at trial;

10 2. On each and every cause of action, for medical and incident damages, in an amount
11 according to proof at trial;

12 3. For interest at the legal rate permitted by law;

13 4. For costs of suit incurred herein; and

14 5. For all other relief that the court deems just and proper.

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16 Date: March 28, 2022

ELLIS LAW CORPORATION

17 By: /s/ Andrew L. Ellis

18 Andrew L. Ellis, Esq.
19 Brandon Corday, Esq.
Attorneys for Plaintiff